

United States District Court  
Middle District of Pennsylvania

FILED  
SCRANTON

OCT 25 2011

Norman J. Shelton  
" vs " Plaintiff

No. 4:11-CV-0368  
(Judge Nealon).

PER M. B. V.  
DEPUTY CLERK

defendants,

Warden Bledsoe et al

**Brief In Opposition to Defendants  
Motion For Summary judgement**

Background

On February 25, 2011 Norman J. Shelton, an inmate confined in the United States penitentiary, Lewisburg ("USP Lewisburg"), Pennsylvania, filed the above-captioned Bivens action, pursuant to 28 U.S.C. § 1331. He named as defendants five (5) employees of USP Lewisburg. Plaintiff raised claims of deliberate indifference to his safety and excessive use of force with regards to events surrounding a August 30, 2009 assault and battery upon him by his cellmate and claims regarding staff refusing Plaintiff medical care.

In-addition, Plaintiff generally alleged racial discrimination by staff and complained of various forms of mistreatment, including "Corporal punishment," The use of restraints, harassment, and being deprived of water, lights and sleep. See, e.g. *Ashcraft v. King*, 228 Cal. App. 3d 604, 613 (Cal. App. 2d Dist. 1991).

1.) Plaintiff brought this suite to this Honorable Court to seek relief from defendants various mistreatment, deliberate indifference, harassment and excessive use of force. Its a dispute that need to be resolved before this Honorable Court. Base upon the evidence provided by Plaintiff.

2.) The adversary system of justice is the truth which is determined by testing both side of the story. Plaintiff, Suffered from bloody injury's and wounds caused by the assault and battery committed by Plaintiff cellmate while Plaintiff was handcuffed behind his back. And was bleeding from his mouth, nose, and eyes. "see" *Pierson v. Hartley*, 391 F. 3d 898, 902-03 (7th Cir 2004).

3.) Plaintiff have been showing and illustrating the truth from day one, who stand equal before this neutral Court, This Honorable Court did not at no time make any errors by keeping the five (5) named defendants, Heath, Potter, Galletta, Raup, Whittaker, herein this instant action, for this Court have determined that the remaining defendants in fact did violate Plaintiff's Constitutional rights of the Eighth amendment, by their own omission, On August 10, 2011 This Honorable Court (Doc. 42), Dismissed defendants motion for summary judgment and motion to dismiss as moot.

## Discussion

4.)

If any part of this tripod of justice is weak or fails to satisfy their individual function, The tripod of justice loses its stability, Collapses and fails to produce a reliable result which is the ultimate goal of receiving justice. For the in-justice that was inflicted upon Plaintiff by the hands of the defendants. This Honorable Court met its duties and responsibility's so far as to move this case forward. In addition to allowing the first four (4) page of Plaintiff's first Complaint to remain, Plaintiff will proceed as of Record (Doc. <sup>42</sup> ~~41~~, pp 1-4). Is what this Honorable Court determined.

5.) See, Jensen v. Clarke, 94 F.3d 1191, 1198-1200 (8<sup>th</sup> Cir 1986) and see, Riccardo v. Rausch, 375 F.3d 521, 526 (7<sup>th</sup> Cir, 2004). and See, Johnson v. Johnson 385 F.3d 503, 524 (5<sup>th</sup> Cir, 2004).

In-addition ~~this~~ Honorable Court dismissed defendants motion for summary judgment and motion to dismiss (Doc. 43). also as moot. The pain and suffering and un-equal treatment and un-fairness of the excessive use of force did not stop, it didnt go no where its still the same and more.

6.) Plaintiff wish's for this Honorable Court to order the defendant to respond to Plaintiffs motion for injunction relief (Doc 16,20) within twenty (20) days Plaintiff prays that this Honorable Court Grants Plaintiff motion for preliminary and injunction relief, see, " " (Jensen v. Clarke, 94 F.3d 1191, 1198, 1200 (8<sup>th</sup> Cir 1986). and see, Northington v. Jackson, 973 F.2d 1518, 1523, (10<sup>th</sup> Cir. 1992). see, Watson v. Riggle 315, F. Supp.2d 963, 969-70 (N.D. Ind 2004).

### Conclusion.

The defendants, through intake, knew of the substantial risk of serious harm that the Plaintiff faced and disregarded it by failing to take reasonable measures to avoid it. Because they placed another gang member in the cell with plaintiff on Nov. 26, 2009. Finding Cognizable 8<sup>th</sup> amendment, Claim when, as two prisoners beat another for 20 ~~minutes~~ minutes officers stood idly by and did nothing to stop it. The Defendants are refusing to allow plaintiff his one hour rec, (5) days out of a week. Plaintiff cellie go to rec, but the % states you are banged because you file law suite on people family members, see the rec book, I have not been outside the whole month of August and the whole month of September.

## Certificate of Service

I declare under the penalty of perjury that the following is true and correct to the best of my ability. That I placed the enclosed motion in the mail box to be mailed to the following address.

TO.

United States District Court  
Middle District of Pennsylvania  
William J. Kealon Federal Bldg, U.S. Courthouse  
235 North Washington Avenue / P.O. Box 1148 /  
Scranton Pa. 18501-1148

and to

The defendants Lawyers  
United States Attorneys office  
228 Walnut Street  
Suite 220  
Harrisburg Pa. 17108

Submitted  
Norman W. Shelton

#415969-066

(dated 10-23-11)

U. S. P. Lewisburg

P.O. Box 1000

Lewisburg Pa. 17837

Inmate Name: Sharon A. Shelton AOC  
Register Number: 45969-066  
United States Penitentiary  
P.O. Box 1000  
Lewisburg, PA 17837

HARRISBURG PA 171  
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OCT 25 2011

MARY E. DYANDREA, CLERK

Per M. E. Dyandrea

Deputy Clerk

Legals

United States District Court  
Office of the Clerk  
Middle District of Pennsylvania  
William J. Mealon Federal Bldg. U.S. Courthouse  
235 North Washington Avenue  
P.O. Box 1148  
Scranton Pa. 18501-1148

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